

18 July 1959

MEMORANDUM FOR: Legislative Counsel

SUBJECT : Comments on H.R. 7268, a Bill to Provide
for the Settlement of Claims of Military
Personnel and Civilian Employees of the
Federal Government

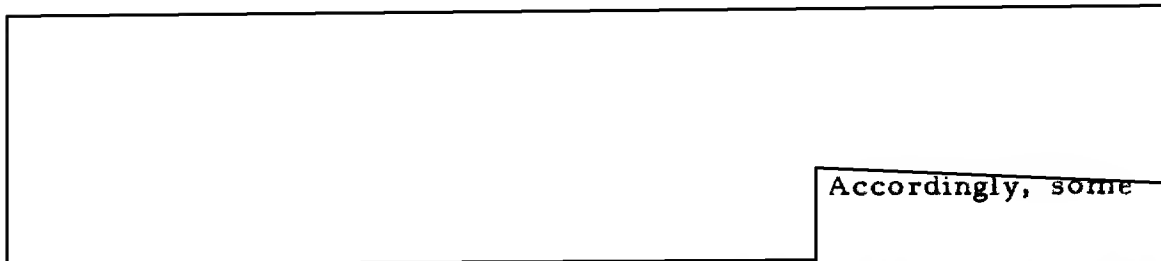
1. This bill is of direct interest to this Agency and its progress should be followed closely. The passage of a bill on this general subject would be of advantage to this Agency in that it would provide a statutory basis for the payment of certain claims of Agency employees which are not now payable under the existing Agency regulations since this class of claims do not involve the use of unvouchered funds.

2. This bill is very poorly drafted and undoubtedly will be amended extensively or a new bill will be substituted therefor. The most obvious error in drafting is that the bill purports to cover the Armed Services and to repeal certain statutes relating to claims by Armed Service personnel. In fact these statutes were repealed and superseded in 1956 in connection with the codification of Military law in Title 10, U.S. Code. The existing claims provisions relating to property losses in Title 10 may be found in Sections 2732 and 2735. These sections superseded 31 U.S. Code 222c, et al..

3. H.R. 7268 has been drafted using 31 U.S.C. 222c as a model. Whereas the latter statute authorized payments not in excess of \$2500, and 10 U.S.C. 2732 raises this amount to \$6500, H.R. 7268 imposes no monetary limit.



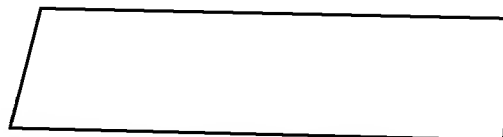
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Accordingly, some

5. Because this bill is so poorly drafted it does not seem useful at this time to comment in detail on its provisions. However, in general, it authorizes each agency head to prescribe regulations to consider, settle and pay employee claims for the damage to, or loss, destruction, capture, or abandonment of personal property "occurring incident to their service", provided the property was "reasonable, useful, necessary or proper", and provided the damage, loss, etc. was not "caused in whole or in part by any negligent or wrongful act on the part of the claimant", and provided the damage, loss, etc. occurred in Government-assigned or provided quarters rather than in private quarters. One question of concern to this Agency which the foregoing scheme calls to mind is whether or not the employee is to be held negligent if he fails to provide insurance for his property; both we and the State Department have adopted this position in our current procedure for the handling of claims, but the opposite view is controlling under the military claims procedure. A second problem for resolution by this Agency under a new statutory scheme such as this related to the identification of Government-furnished versus private quarters; at present the Agency Claims Board considers that quarters leased by an employee, with a deed of trust of the lease to the Agency, to be public quarters, but since they are not within the immediate control of the Government for maintenance purposes the Agency has refused payment of claims asserted for personal property losses occurring in such quarters where no employee negligence was involved other than the failure to provide insurance for the lost property.

6. It is recommended that the Legislative Counsel obtain from the staff of the House Judiciary Committee a current statement as to the future of H.R. 7268 and any successor or companion bills. It is requested that you ascertain whether or not hearings have been or will be held on this subject. Please transmit this information and related documents to me for further analysis.



Assistant General Counsel

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